

## **IOWA DENTAL BOARD**

### **JULY 16, 2008 MEETING MINUTES DES MOINES, IOWA**

The open session meeting of the Iowa Dental Board was called to order at 10:35 a.m. on Wednesday, July 16, 2008, in the conference room, 400 S.W. 8<sup>th</sup> St., Suite D, Des Moines, Iowa, by the chairperson of the board, Deena R. Kuempel, D.D.S.

Members present at this meeting:

Deena R. Kuempel, D.D.S., Chairperson  
Gary D. Roth, D.D.S., Vice Chairperson  
Eileen A. Cacioppo, D.H., Secretary  
Michael J. Rovner, D.D.S.  
Lynn D. Curry, D.D.S.  
Perry T. Grimes, D.D.S.  
VaLinda J. Parsons, D.H.  
Elizabeth Brennan, Public Member  
Diane Meier, Public Member

Also present: Constance L. Price, Executive Director  
Christel Braness, Administrative Assistant  
Phil T. McCollum, Investigator  
Dee Ann Argo, Administrative Assistant  
Theresa O'Connell Weeg, Assistant Attorney General  
Jennifer Hart, Executive Officer  
Janet Arjes, Executive Officer

### **PUBLIC COMMENT**

Dr. Kuempel allowed time for public comment.

### **MINUTES**

Motion by Ms. Cacioppo, seconded Dr. Roth, to approve the minutes of the April 22-23, 2008, meeting of the board, the April 22, 2008 hearing in the Matter of Tammy Eastman Bertch, D.H., and the April 25, 2008, and May 13, 2008, teleconference meetings of the board as written.

Vote: Unanimous.

Motion carried.

## **WELCOME NEW MEMBERS TO BOARD**

Dr. Kuempel and Ms. Price welcomed the new board members to the Board. Ms. Price was pleased to announce that Diane Meier, Iowa Falls, was appointed to fill the position previously held by Suzan Stewart; Ms. VaLinda Parsons, R.D.H., Ames, was appointed to fill the position previously held by Debra Yossi, R.D.H.; and Dr. Perry T. Grimes, Cedar Rapids, was appointed to fill the position previously held by Dr. Alan Hathaway. The three year appointments commenced April 30, 2008.

## **EXECUTIVE DIRECTOR REPORT**

### **RECENT FLOODING**

Ms. Price reported that board staff was ordered to evacuate the board offices during the recent flooding. With the help of volunteers the file cabinets were emptied, equipment dismantled and stored in a moving van out of the flood area.

Ms. Price reported that the Department of Public Health received a few requests to waive licensure requirements to allow non licensed persons to practice in Iowa and offer assistance during the recent crisis. Iowa is a member of the Emergency Management Assistance Compact (EMAC), which allows licensees from other states to come in to the state to assist during a crisis to offer assistance without requiring a license in Iowa. The requests must come through the State Emergency Operations Center (EOC). The center has a process in place to determine if the provisions apply. No formal requests came in through the EOC during the recent flooding.

Ms. Price reported that she was recently advised of Governor Culver's proposed proclamation that would waive fees for replacement of licenses/certificates/permits lost or damaged as a result of the flooding and tornadoes. The waivers would apply to residents of the 87 counties that have a Governor's Disaster Declaration. Ms. Price also stated that the Iowa Dental Board will work with licensees in affected counties who may have been selected for audit and who are unable to submit proof of continuing education. These will be reviewed on a case by case basis as requests are received by the board.

### **FISCAL YEAR 2009**

Ms. Price reported that the board members were supplied with a copy of the FY2009 budget as the new fiscal year has started.

### **LICENSURE IN RENEWAL YEARS**

Ms. Price reported that two years ago there was a change in the renewal date of dental and dental hygiene licenses. Dental hygienists renew in odd-numbered years and dentists continue to renew in even-numbered years. Previously, licenses, permits and registrations expired on June 30 during their expiration year. Licenses, permits and registrations now expire on August 31 in the year of expiration.

Ms. Price reported that the Iowa Dental Association has raised some concerns about the change and the need for newly licensed dentists to pay their first renewal fee. The Board does not and has never charged a renewal fee for new licensees or registrants. The Board has only charged for

an application fee. The renewal fee of a license or registration would only become due at the time of expiration.

Ms. Price reported that a number of states charge a prorated fee for renewal upon issuance of a license/registration, in addition to the initial application fee. An applicant for a license/registration in Iowa is only required to pay the initial application fee and the board does not currently charge the renewal fee for the length of time in which the initial license is valid.

After some discussion, Ms. Price stated that board staff will review this issue further and report back to the board.

#### DATABASE PROJECT

Ms. Price reported that the Request for Proposal (RFP) for the database project has been posted. The procurement timetable for the project requires bid proposals due by August 4, demonstrations are anticipated during the week of August 25; and the anticipated date to execute a contract is October 15, 2008.

Ms. Price reported that she attended a recent meeting of the Technology Governance Board (TGB). That board is beginning its application protocol review of agency needs and future needs. This new project should not alter or interfere with the board's current RFP.

#### IOWA CODE REVIEW

Ms. Price reported that there has been some interest in reviewing and cleaning up another code chapter, this time 272C. Board staff will be involved in the review along with other agencies, and the board will be advised of the status of that review.

#### AADA/AADE MID-YEAR MEETINGS

Ms. Price asked the board members if any were interested in attending the mid-year meetings scheduled for later this fall. Dr. Kuempel stated that she was interested in attending. Ms. Price indicated that she is interested in attending the AADA.

Motion by Ms. Cacioppo, seconded Dr. Roth, to approve sending Dr. Kuempel to the AADE meeting and Ms. Price to the AADA meeting this fall.

Vote: Unanimous.

Motion carried.

#### PUBLIC HEALTH SUPERVISION

Ms. Price reported that the public health supervision annual report was distributed to the board members. Ms. Price noted that every year the number of people receiving services through public health supervision is increasing. The clients age 0-20 provided regular care increased to 17,000 with 2,455 urgent care referral to dentists.

#### DEPARTMENT OF REVENUE

Due to recent legislation, Senate File 2428, the licensing boards are now required to release social security numbers to the Iowa Department of Revenue upon request. The Iowa Department of Revenue has requested this information from the Iowa Dental Board. Ms. Price reported that she has contacted the Iowa Department of Revenue about this matter. Ms. Price received information indicating that letters pertaining to dental professionals inquiring about the status of their income tax filings are scheduled to be mailed at the end of this year.

#### **LEGAL UPDATE**

##### BLEACHBRIGHT OF IOWA

Ms. Weeg reported that the District Court for Polk County granted the board's request that BleachBright of Iowa, LLC refile the Petition for Declaratory Judgment correctly. Ms. Weeg reported that the attorney for BleachBright of Iowa, LLC informed her that his clients have not authorized him to proceed with a refile of the Petition for Declaratory Judgment at this time.

Ms. Price stated that there may be a need to update the Iowa Code so that there is greater clarification as to the practice of dentistry and how it may affect the practice of teeth whitening. Ms. Weeg felt that this topic will continue to come up until there was greater clarification. The statute may need to be revisited to clarify the topic of teeth whitening. Currently, Oklahoma is the only state to have a specific state statute regarding teeth whitening.

Motion by Ms. Cacioppo, seconded Dr. Curry, to pursue this matter further.

Vote: Unanimous.

Motion carried.

#### **COMMITTEE REPORTS**

##### **CENTRAL REGIONAL DENTAL TESTING SERVICE, INC. (CRDTS)**

##### DENTAL STEERING COMMITTEE REPORT

Dr. Kuempel had no report at this time. Dr. Kuempel will be attending the meeting in August 2008.

##### DENTAL EXAMINATION REVIEW COMMITTEE

Dr. Roth had no report at this time. Dr. Roth will be attending the meeting in August 2008.

##### DENTAL HYGIENE EXAMINATION REVIEW COMMITTEE

Ms. Cacioppo reported that there are some recommendations for the 2009 Dental Hygiene ADEX examination, which are different from the recommendations made in 2008. This should be clarified at the annual meeting in August 2008.

**ADEX EXAMINATION COMMITTEE**

Dr. Kuempel reported that she attended the recent meeting on behalf of the board. Dr. Kuempel stated that she was disappointed with the election process for ADEX officers. Dr. Kuempel stated that she is an advocate of the ADEX examination and will bring this concern up at future ADEX meetings.

**ANESTHESIA CREDENTIALS COMMITTEE**

Dr. Roth stated that rule changes proposed by the committee will be discussed later in the agenda.

Dr. Roth reported that the American Association of Anesthesiologists is proposing a course to better address training in ACLS, as well as meeting the airway management skills necessary for emergencies. Dr. Roth reported that, currently, there is a lack of good continuing education in the area of sedation and airway management. The proposed course would address some of the issues.

**CONTINUING EDUCATION ADVISORY COMMITTEE**

Ms. Cacioppo reported that the list of courses that the committee has recommended for approval had been provided to the board members.

Motion by Ms. Cacioppo, seconded Dr. Rovner, to approve the list of continuing education courses as submitted.

Vote: Unanimous.  
Motion carried.

**DENTAL HYGIENE COMMITTEE**

Ms. Cacioppo reported that the Dental Hygiene Committee met prior to the board meeting.

Motion by Ms. Cacioppo, seconded Ms. Parsons, to nominate Dr. Kuempel as the dentist member to the Dental Hygiene Committee

Motion by Dr. Grimes, seconded Dr. Rovner, to nominate Dr. Curry as the dentist member to the Dental Hygiene Committee.

Ms. Price called for a vote for the dentist member appointment to the Dental Hygiene Committee. Those in favor of Dr. Kuempel's appointment were asked to respond.

Vote: Dr. Roth, aye; Dr. Rovner, aye; Ms. Brennan, aye; Ms. Meier, aye; Ms. Parsons, aye; Ms. Cacioppo, aye.  
Dr. Kuempel was appointed by majority vote.

## **CONSIDERATION OF RULES**

### 650 IOWA ADMINISTRATIVE CODE

#### CHAPTER 29 "DEEP SEDATION/GENERAL ANESTHESIA, CONSCIOUS SEDATION AND NITROUS OXIDE INHALATION ANALGESIA"

#### ADA GUIDELINES/ANESTHESIA CREDENTIALS COMMITTEE RECOMMENDATIONS CONSIDER NOTICE OF INTENDED ACTION

Ms. Hart reported that the proposed changes revise board rules in accordance with the new ADA sedation guidelines. Ms. Hart reported that there were several changes in terminology. Unlike the ADA guidelines, however, board rules have never made a distinction between the methods of delivering sedation whether by enteral or parenteral means, but rather have always required that permit holders obtain the highest level of training for the level of sedation achieved. The Anesthesia Credentials Committee feels there is a higher risk from oral sedation over IV sedation since you cannot easily stop or reverse oral sedation agents. Recent board cases have also highlighted the importance of maintaining the same high standards for training for conscious sedation, regardless of the route of administration. The board and the committee have always required that applicants for a conscious sedation permit obtain training in parenteral sedation and airway management.

The Anesthesia Credentials Committee (ACC) surveyed permit holders and found that the impact of the proposed rule changes would be minimal to current permit holders. The proposed rules would grandfather-in licensees who have been safely sedating pediatric and medically compromised adults for at least five years. The new rules would not require these licensees to obtain additional training in these areas of sedation. However, new applicants for sedation permits would be unable to sedate pediatric patients (those under age 12) and medically compromised patients (those classified as ASA category 3 or 4 as defined in the proposed new definitions) unless additional board-approved training had been completed.

The board briefly discussed wording options for grandfathering in permit holders to training requirements for pediatric and medically compromised patients. Wording should be made consistent so that permit holders who have been providing services to these patients for five years without a report of adverse occurrences would be authorized to continue to sedate these patients.

Motion by Ms. Cacioppo, seconded Dr. Roth, to approve the Notice of Intended Action with the changes suggested.

Vote: Unanimous.

Motion carried.

### 650 IOWA ADMINISTRATIVE CODE

#### CHAPTER 35 "IOWA PRACTITIONER REVIEW COMMITTEE"

#### COMMITTEE MEMBER TERMS OF SERVICE

#### ELIGIBLE FOR ADOPTION AND FILING

The proposed amendment specifies that the Iowa Practitioner Review Committee shall elect a chairperson and vice chairperson annually. In addition, it specifies that committee members are appointed for three-year terms and may serve a maximum of three terms. Notice of Intended Action was published in the Iowa Administrative Bulletin on May 21, 2008, as ARC 6803B. A public hearing on the amendment was held on June 10, 2008. No oral or written comments were received. The amendment is identical to that published under Notice. Ms. Hart reported that the proposed amendment to Chapter 35 is eligible for adoption.

Motion by Ms. Cacioppo, seconded Ms. Brennan, to adopt and file the proposed amendment.

Vote: Unanimous.  
Motion carried.

### **LEGISLATION – 2008 SESSION**

#### **IOWA CODE CHAPTER 147.14**

Ms. Price reported that staff is requesting input from the associations concerning the current prohibition of faculty members from serving on the board. Ms. Price stated that the board may discuss the issue of proposing an amendment to Iowa Code 147.14 at the meeting in October 2008.

### **CONSIDERATION OF ISSUES**

#### **IOWA BOARD OF NURSING POSITION STATEMENT – PROPOFOL**

Ms. Price reported that the Iowa Board of Nursing is pursuing rule changes concerning the issue. The proposed changes would allow an exception for nurses who practice in an oral and maxillofacial surgeon's office.

#### **CORPORATE PRACTICE OF DENTISTRY IN IOWA**

Ms. Price reported that in response to discussion at the last board meeting, the letter that is mailed to new licensees has been updated. The letter specifically clarifies that licensees must retain "dominion and control" over the professional practice. Accordingly, every dentist employed by a corporation should be aware that the dentist, not the corporation is fully responsible for compliance with Iowa laws governing issues such as treatment planning, quality of care, requirements for infection control, supervision of auxiliary, registration and licensure of auxiliary personnel, recordkeeping, billing and all other matters pertaining to the practice of dentistry.

It was suggested that this information could be included in the jurisprudence exam and notification also sent to existing licensees.

#### **DENTAL LABORATORIES – CONCERN WITH WORK OVERSEAS**

Ms. Price reported that this issue was first brought to media's attention in Ohio. Since there is very little state or federal oversight of dental labs, it is a bit more difficult to regulate or address this issue. The board agreed that the dentists should have the right to know where lab work is

performed, as ultimately the dentist is responsible for the work performed and the care rendered to the patient. The board recommends to licensees that the dentist include on their lab prescription forms a "point of origin" section. Ms. Price provided a copy of a sample laboratory prescription and point of origin form.

Motion by Dr. Roth, seconded Ms. Cacioppo, that the board post the sample dental laboratory prescription and point of origin form on the board's website and encourage licensees to document this information for their patients.

Vote: Unanimous.

Motion carried.

IAC 641-88.5(1)"d"(5)

#### DEFINITION OF MINOR SURGICAL PROCEDURES

Ms. Price reported that the board has been asked to define a "minor surgical procedure" for the purposes of indemnification under the Volunteer Health Care Provider Program (VHCPP) of the Iowa Department of Public Health for review of the Iowa Mission of Mercy (IMOM) project. The IMOM project has asked the Department of Public Health to make VHCPP available to indemnify licensees associated with the IMOM project, who will not be covered under their own malpractice insurance. For this reason, the IDPH has asked the board to define what constitutes minor surgical procedures in dentistry. Licensees who will be participating under their own malpractice insurance would not be restricted by limitations put in place by the VHCPP.

From discussion, the members concluded that it would be extremely difficult to define the phrase. The definition would depend on the patient's health status, training and skill of the dentist, and many other factors. In researching the question, no consensus could be achieved on a definition, particularly in cases where there would be no follow up care available or provided. The Iowa Dental Association reported that the VHCPP was designed for medical clinics and it was challenging to adapt it to a program like IMOM. For example, an oral surgeon would potentially be limited from providing those services that are primarily in their scope of practice and training if they were not allowed to provide minor surgical procedures. Ms. Hart suggested that those involved with the IMOM project may want to request a waiver to this IDPH rule.

Motion by Ms. Parsons, seconded Dr. Rovner, to support the Iowa Dental Association's request for a waiver of this rule if they decide to pursue it for the IMOM project.

Vote: Unanimous.

Motion carried.

### **APPLICATIONS FOR LICENSURE/PERMITS/REGISTRATION**

#### APPROVAL OF APPLICATIONS

The board was provided with a list of the applications for licensure, permit, and registration that have been processed since the last meeting.



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Between April 22, 2008, and July 15, 2008, the board licensed 43 dentists and 73 dental hygienists; 1 faculty permit, 9 resident dental licenses, and 85 local anesthesia permits. The board registered 97 dental assistants with the additional qualification in dental radiography and 5 dental assistants registered without a qualification in dental radiography; the board issued 1 qualification in dental radiography without registration, and trainee status to 70 dental assistants.

Motion by Ms. Cacioppo, seconded Dr. Curry, to approve issuance of licensure, permits, and registrations to those persons listed.

Vote: Unanimous.

Motion carried.

Ms. Braness reported that the board received an application that requires board approval prior to issuance of a dental license. Dr. Burke holds a faculty permit at the University of Iowa College of Dentistry. Dr. Burke wishes to offer services outside of the university system. Dr. Burke is a graduate of an accredited program and has successfully completed a clinical licensing examination. Dr. Burke presently has not held a dental license, along with the required practice, in another state for at least three years prior to application. Dr. Burke is asking that his faculty permit and overall practice history be sufficient for licensure in Iowa.

Motion by Dr. Curry, seconded Ms. Brennan, to approve the overall clinical practice of Dr. Burke as sufficient to meet the requirement for licensure by credentials.

Vote: Unanimous.

Motion carried.

Ms. Braness reported that the board received an application for extension of a resident permit from Dr. Talungchit. She is seeking a Ph.D. in Oral Science and will be seeing patients in the Operative Dentistry department for the next three years. Dr. Talungchit is requesting an extension of her resident dental license to cover her clinical practice.

Motion by Dr. Roth, seconded Dr. Curry, to approve the request to extend the resident permit of Dr. Talungchit.

Vote: Unanimous.

Motion carried.

### **ELECTION OF OFFICERS**

Motion by Ms. Cacioppo, seconded Dr. Roth, to nominate Dr. Kuempel as chairperson of the board.

Vote: Unanimous.

Motion carried.

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Motion by Ms. Cacioppo, seconded Dr. Rovner, to nominate Dr. Roth as Vice Chairperson of the board.

Vote: Unanimous.  
Motion carried.

Motion by Dr. Roth, seconded Ms. Parsons, to nominate Ms. Cacioppo as secretary of the board.

Vote: Unanimous.  
Motion carried.

Motion by Dr. Kuempel, seconded Dr. Curry, to appoint the following members to serve on the board's committees as follows: Ms. Meier to the Licensure/Registration Committee and Dr. Grimes to the Dental Assistant Registration and Ad-Hoc Examination Committees. Ms. Parsons will serve on the Dental Hygiene Committee.

Vote: Unanimous.  
Motion carried.

**OPPORTUNITY FOR PUBLIC COMMENT**

Dr. Kuempel allowed time for public comment.

**CLOSED SESSION**

Motion by Dr. Roth, seconded Dr. Rovner, for the board to go into closed session pursuant to Iowa Code Section 21.5(1)(d) and (f) to discuss and review complaints and investigative reports which are required by state law to be kept confidential and also to discuss decisions to be rendered in contested cases.

Vote: Ms. Cacioppo, aye; Ms. Parsons, aye; Dr. Roth, aye; Dr. Kuempel, aye; Dr. Rovner, aye; Dr. Curry, aye; Dr. Grimes, aye; Ms. Brennan, aye; Ms. Meier, aye.  
Motion carried.

**OPEN SESSION**

Motion by Ms. Cacioppo, seconded Dr. Curry, for the board to return to open session.

Vote: Unanimous.  
Motion carried.

IN THE MATTER OF  
SHEA A. STONEWALL, R.D.A.

Board considered a proposed Combined Notice of Hearing, Settlement Agreement and Final Order regarding this matter.

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Motion by Ms. Cacioppo, seconded Ms. Brennan, to approve the Combined Notice of Hearing, Settlement Agreement and Final Order as proposed.

Vote: Unanimous.  
Motion carried.

IN THE MATTER OF  
SCOTT E. EIVINS, D.D.S.

Board considered a proposed Notice of Hearing and Statement of Charges regarding this matter.

Motion by Ms. Cacioppo, seconded Dr. Roth, to approve the Notice of Hearing and Statement of Charges as proposed and schedule a hearing in this matter on October 28, 2008.

Vote: Unanimous.  
Motion carried.

IN THE MATTER OF  
JAMIE E. SCHULTZ, R.D.H.

Board considered a proposed Notice of Hearing and Statement of Charges regarding this matter.

Motion by Ms. Brennan, seconded Ms. Cacioppo, to approve the Notice of Hearing and Statement of Charges as proposed and schedule a hearing in this matter on October 28, 2008.

Vote: Unanimous.  
Motion carried.

IN THE MATTER OF  
ROSALIE A. GEPHART, R.D.A.

Board considered a proposed Combined Notice of Hearing, Settlement Agreement and Final Order regarding this matter.

Motion by Ms. Cacioppo, seconded Dr. Rovner, to approve the Combined Notice of Hearing, Settlement Agreement and Final Order as proposed.

Vote: Unanimous.  
Motion carried.

IN THE MATTER OF  
BRADLEY G. MARKOWSKI, D.D.S.

Board considered a proposed Combined Notice of Hearing, Settlement Agreement and Final Order regarding this matter.

Motion by Ms. Cacioppo, seconded Dr. Curry, to approve the Combined Notice of Hearing, Settlement Agreement and Final Order as proposed.

Vote: Unanimous.  
Motion carried.

IN THE MATTER OF  
TIM P. NICOLINO, D.D.S.

Board considered a proposed Combined Notice of Hearing, Settlement Agreement and Final Order regarding this matter.

Motion by Dr. Roth, seconded Ms. Cacioppo, to approve the Combined Notice of Hearing, Settlement Agreement and Final Order as proposed.

Vote: Unanimous.  
Motion carried.

IN THE MATTER OF  
ROBERT BRUCE COCHRANE, D.D.S.

Board considered a request from this licensee for termination of his probation.

Motion by Dr. Roth, seconded Ms. Brennan, to grant this licensee's request to terminate the probation.

Vote: Unanimous.  
Motion carried.

IN THE MATTER OF  
MARGARET A. KRAMER, D.D.S.

Board considered a request from this licensee for termination of his probation.

Motion by Dr. Curry, seconded Ms. Brennan, to grant this licensee's request to terminate the probation.

Vote: Unanimous.  
Motion carried.

#### **DISCIPLINARY HEARINGS SCHEDULED**

IN THE MATTER OF  
GARY S. LUNA, D.D.S.

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Motion by Mrs. Cacioppo, seconded Mrs. Brennan that the board hearing scheduled for January 14, 2009, be rescheduled for December 10, 2008, at 8:00 a.m. due to scheduling difficulties.

Vote: Unanimous.  
Motion carried.

IN THE MATTER OF  
DANIEL J. SCHUSTER, D.D.S.

Motion by Mrs. Cacioppo, seconded Dr. Roth, that the board on July 1, 2008, determined that the hearing in this matter that was to be continued until further Order of the Board, is now scheduled to commence at 2:30 p.m., October 28, 2008.

Vote: Unanimous.  
Motion carried.

IN THE MATTER OF  
PETER L. VIDAL, D.D.S.

Motion by Mrs. Cacioppo, seconded Mrs. Brennan, that due to scheduling difficulties, the board hearing scheduled for November 20, 2008, be rescheduled to instead commence at 8:00 a.m., January 14, 2009.

**BOARD MEETING DATES**

The board members set future tentative meeting dates: January 15-16, 2009; April 21-22, 2009; July 15-16, 2009; October 27-28, 2009; and January 14-15, 2010.

**NEXT MEETING OF THE BOARD**

The next meeting of the board is scheduled for October 28-29, 2008, in Des Moines, Iowa.

**ADJOURNMENT**

The board was scheduled to also meet on July 17<sup>th</sup>, however having concluded its business early, adjourned its meeting at 4:35 p.m. on July 16, 2008.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Constance L. Price', with a stylized flourish at the end.

CONSTANCE L. PRICE  
Executive Director

CLP/cb